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In re Application of Takanobu Kamakura
Application No. 08/578,980
Filed: December 27, 1995
Attorney docket No. 0039-5461-2

DECISION ON PETITION

This is a decision on the petition filed March 12, 2001, requesting relief from the filing of a corrected copy of claims and further requesting compliance with MPEP §§1003(10).

The Petition is moot with respect to the correction of the appealed claims. The Petition is denied with respect to the issue of compliance with the aforementioned requirement of the MPEP.

An Office action was issued on February 12, 2001, Paper No. 28, stating that "claims 1 and 6-10 fail to show the latest version of the claims." Upon comparison of the appealed claims as reproduced in the appendix to the Brief filed January 25, 1999, with the claims in the application file, it is determined that only claim 8 is in error. Claim 8 appended to the Brief is missing the word "defect" in line 3 (see the amendment to claim 8 filed on June 9, 1998, Paper No. 15). In the interest of expediency, the correct version of claim 8 will be reproduced in a supplemental examiner's answer.

Petitioner also contends that the Examiner's Answer sets forth a new interpretation and or application of 35 U.S.C. §102. This is not convincing because said Answer is limited to the rejections and applied prior art of the final rejection, Paper No. 16. With respect to the Reply Brief, no further substantive response by the examiner is necessary as stated in MPEP §1208.04:

Normally, when a reply brief has been filed by the appellant in response to a new point of argument in the examiner's answer, the case should be forwarded to the Board without any need for the preparation of a supplemental answer by the examiner.

For clarification, it is noted that the Reply Brief was "remanded" to the examiner because this paper was delivered by the mailroom directly to the Board of Appeals and Interference where the application file was located. The "remand" referenced by Petitioner was the first opportunity the examiner had to study the Reply Brief.

Subsequent to the mailing of this decision, the application file will be forwarded to the examiner for prompt issuance of a supplemental examiner's answer reproducing claim 8 as it appears in amendment filed June 9, 1998.

Rolf G. Hille

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